

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

COURT OF APPEALS
DIVISION II

STATE OF WASHINGTON)
)
 Respondent,)
)
 v.)
)
Steven G. Williams)
(your name))
)
 Appellant.)
)

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STATE OF WASHINGTON
BY SGW
DEPUTY
No. 42319-7-II
STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Steven G. Williams, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

Violation of my constitutional rights under the fourth amendment of the US Constitution.
The requirement that a search warrant "Particularly describe" the items to be seized.
The search warrant used to obtain evidence intended to be used against me at trial listed "Electrical tape, tape, belts" and/or any other evidence relating to this crime.
This does not particularly describe anything, but allows the serving officer a blanket permission to take whatever he wants and to search areas that could not hold the things listed on the warrant.

Additional Ground 2

Prosecutor and Public Defender knowingly misinstructed the jury as to the elements of the charge that must be proven to find a defendant guilty of assault of a child in the second degree. Namely that the defendant be proven to have "Previously engaged in a pattern or practice of assaulting the child. When asked, the Public Defender just nodded and "Shushed" the defendant.

If there are additional grounds, a brief summary is attached to this statement.

Date: 22 feb 2012

Signature: Steve G. Williams

Additional Ground 3

Doctored Photos: Two sets of photos were presented as evidence at trial. The first set was taken by detective Silva and CPS agent Ronnie Jensen. The second set was taken by DR. Feldman after examining the accuser over 24 hours later (at least 30 hours after the accuser left my company, spending the intervening time with his Grand mother and her new husband). The second set of photos was manipulated by adjustment of the Burn and Contrast settings to achieve a horror movie special effect deliberately designed to horrify and prejudice the jury to influence them to convict on emotion instead of evidence. If such antics were committed by the defendant, he would be charged with evidence tampering. Having seen the photos prior to trial, the prosecutor (Colin P. Hayes) knew that the photos were doctored as they were obviously very different from the first set. In calling the witness and admitting doctored photos into evidence, the prosecutor is complicit in the same charges. In addition, calling a witness knowing that he will intentionally lie as the state pays the doctor makes Mr. Hayes guilty of witness tampering as the witness's future financial status would be affected if he (the Doctor) did not testify that the photos were a "fair and accurate representation" of the accused.

3

injuries. Since the doctor was obviously aware of his own actions, he must be guilty of perjury. The Dr., with full knowledge of the consequences of his actions, did adjust the properties of photos to be entered into evidence in the hope of prejudicing the jury. This could not help but have an unfair effect on the outcome of the trial.

Additional Ground 4

Spanking a child is not legally Assault in any state in this nation. I was responsible for the accused's discipline and authorized to spank him as needed. Unless the "unwelcome touch" standard is now to be applied to parenting, thereby taking the right and responsibility of disciplining one's child out of the hands of the parents, I cannot be guilty of assault of a child for a simple spanking that never even elicited an "ow!" or a tear.

Additional Ground 5

The prosecutor repeatedly characterized me as "frustrated," while never explaining, or entering into evidence, what I was supposedly frustrated about. I was soon to be married, I had just received orders to attend the Defence Language Institute Mandarin Chinese

course where I was to earn about \$4500 a month for the 16 months of the program.

This would have paid for my wedding and a down payment on a house for my new family.

This would also have taken me past the 20 years of service required for my retirement.

This conduct constitutes attributing a false motive to my "crime" which lent a false and unwarranted air of legitimacy to the charges, thereby prejudicing the jury with a theory that he failed to prove.

Additional Ground 6

The prosecutor (Colin P. Hayes) deliberately, and for the purposes of prejudicing the jury, made up the allegation of dunking the accused's head in a toilet bowl full of urine. DMR (the accused) stated that "Steve" pushed his head into the toilet. I have never done anything like that to anyone. It was never proven in court. I stated on the stand, as I did in my statement, that I walked DMR into the bathroom on occasions that he did not flush, and stopped him next to

the toilet, and with my finger tips tilted his head down until his eyes were pointed at the toilet bowl. I would then state "look at this" and "What's wrong with this picture?" And when DMR answered "There's pee in the toilet?" I would say "And how do we fix that?" and he would flush. Then I would ask what else was wrong and he never knew, so I would tap on the toilet seat and he would lower it and be done.

Prosecutor combined these of his own accord to make his own, wholly unsupported story that even the accusers statement did not support. If this is acceptable in court, then the prosecutors need to be sworn in as witnesses from now on.

Additional Ground 7

The presumption of innocence, being central to the American criminal justice system, must stand in the face of an accusation. If the accusation itself is to be considered damning without corroborative evidence, then there IS no presumption of innocence. The overwhelming majority of the case against me is just the word of one seven year old boy with Asperger's Syndrome,

And who had just failed first grade. The rest is repetition the same by DMR's grandmother (who has been seeking legal custody of him since her son abandoned him at two days old), a CPS agent (who needs to keep caser going to justify her budget in this era of mandatory furlough days for many state employees), a doctor (who has a history of being sued over misdiagnosing anything and everything as Munchosan Syndrome by proxy and who makes a substantial portion of his earnings as an expert witness in child abuse), and overzealous police police (who failed to even consider any other possibility). All regurgitating the same fragments of a story, but no two telling it the same way.

DMR's statement was mishandled from the beginning. When Detective Kim Stonebreaker inexplicably chose not to record DMR's statement, she contaminated it for good. This incompetent must be the only police detective on this continent who does not carry a recorder, or feel that it may be important to record an accuser's initial statement, let alone when that accuser is a child. The Department of Justice website

clearly specifies that a child accuser or witness must always be video recorded. It also states that any child must only be questioned once. A 1998 paper that I found on the internet and forwarded to my defender quoted John Meyer (currently our prosecutor) as saying that the only reason to audio record instead of video record a child's statement is if it is impossible to video record. The failure to record the initial interview violated this policy and contaminated the original statement. This is how the Wenatchee Witch hunt and the McMartin preschool cases got out of control.

Additional Ground 8

DMR placed four telephone calls to his grandmother during his visit (by her own testimony) and never once did DMR complain of being physically abused. DMR lived with his grandmother for two years prior to these charges, he trusted her. There is no way he would not feel comfortable reporting abuse to her if it were actually occurring.

On the fourth call DMR reported that he had black eyes, not that he had been hit. The grandmother immediately asked DMR,

"Who hit you?" thereby implanting the seeds of the story she would need to tell to get custody after seven years of trying. This contaminated DMR's testimony from the beginning. Interestingly, this only happened after DMR's mother (Sarra Dennis) informed the grandmother of our intention to get married and raise DMR. DMR did not indicate that I had given him the black eye at that time.

There remains no witness or physical evidence that I am in any way responsible for the black eyes, let alone that it was deliberate. Police and CPS questioning in addition to the grandmother's selfishness wrote the story for DMR.

Additional Ground 9

DMR added another accusation during the trial; that I had picked him up, bodily, and threw him into two book cases hatted up side by side in my living room. Firstly, DMR had no bruises that would have been consistent with an impact against a book case. One would expect to see linear bruising with clearly defined edges matching edges of a bookshelf or upright side supports. No such bruises

were present on DMR to support this claim.

Secondly, there was not, nor had there ever been, two book cases in my house butted up next to each other. A simple viewing of Detective Sergeant Silva's video of the execution of the search warrant executed on my house will verify this.

I owned three book cases; two in the living room and one in the front room. The one in the front room was in the eastern corner of the south hall of the house. One of the ones in the living room was in the east corner of the southern wall of the living room (the wall shared with the bathroom). The last book case was in the northern corner of the west wall of the living room, next to the north facing window. These two book cases are literally as far apart as they could be and still be in the same room. This makes this claim quite impossible. Impossible far exceeds reasonable doubt.

Thirdly, the only place DMR was routinely exposed to multiple book cases butted up next to each other was at his grand mother's house in Davenport Washington, where he spent

the previous two years living, and he returned after his visit (while this story was still being formed in his mind). DMR's testimony is again compromised.

Additional Ground 10

DMR stated that I spanked him over most of his body. The police and prosecutor attributed the bruises to these spankings. No evidence supports any causal relationship. No photographs in evidence show any bruises consistent with a belt, and only two were consistent with a human hand, one on each shoulder. Careful inspection will reveal that both bruises were from opposite hands. One even had a thumb shaped bruise directly opposite (on DMR's left collarbone) in a position suggesting that he was gripped by the shoulder. Unless the prosecutor's theory of the crime is that I slapped DMR on one shoulder, then, inexplicably slapped him with the other hand, on the opposite side (with my off hand) and struck him on the collarbone at the same time, requiring movement in the opposite direction, impossible.

Because the bruising pattern does not match the prosecutor's story it

only makes sense that my testimony, which did match the bruises, should be accepted, as a theory that does not match the evidence cannot go beyond a reasonable doubt.

The bruises on DMR's body are all on high protrusions on his body; elbows, ankles, knees, hips etc. These are places one would expect to see them if a seven year old, 54 pound boy with behavioral issues reacted violently to being gently but firmly pushed with two hands, three feet to stand under a stream of water from the shower head.

Breaking free of my grasp, striking me with punches and kicks until he fell into the tub, surrounded on five sides (including the floor) and continuing to panic, violently striking the walls, swinging at me, thrashing around. DMR bruised himself. His own violent tantrum injured him in spite of my attempts to calm and restrain him. Unless I seriously misunderstand the law, attempting to make a child I am responsible for wash his hair after over a week of refusal is not assault. Nor is inability to stop a tantrum.

Additional Ground 11

Tape, two photos from my phone

and belts were entered into evidence to be used against me. One of the photos on my phone showed DMR with no visible marks and no facial expression. This was taken at the beginning of his visit. The second one shows him with two black eyes during the last three days of his visit. In this photo he's smiling and laughing with me. His "abuser". This is not the face of fear. Not the face of pain. Certainly not the face of abuse. It is a little boy playing with a friend that he trusts.

The prosecutor never explained what entering these photos into evidence was intended to prove. But what it showed was that DMR was happier after being with me, and that I cared about him. As for proving any element of the crime, it was useless.

A role of black duct tape was entered into evidence and presented as evidence at my trial. It was found in my bathroom with some of my tools I had, as I testified, been working on some home improvement projects in there. According to the prosecution, This roll was used to bind DMR's hands and tape his mouth closed. This roll was never finger printed. No hair or fibers recovered.

from it. In short, nothing but the say so of the prosecutor to connect it to anything. My say so is the only reason anyone could say it was mine and not Serrano. I admit that it is my tape, but if it was used to bind DMR, which it wasn't, the prosecutor never proved it. Nor did he ever prove that it was done BY ME. Part of his burden.

A nine or 10 inch long piece of electrical tape was recovered from my trash. Electrical tape is approximately five eighths of an inch wide. That is too narrow to be the piece I was accused of covering DMR's mouth with. It is also too short to be the piece that I am said to have bound his wrists with. Once again, no fingerprints, DNA, or fiber or hair evidence was obtained from this sample. Literally nothing connects this piece of tape to any crime, yet it was presented as evidence in court, simply to imply the presence of physical evidence.

Multiple belts were taken from my house. None were identified as the one I sparked DMR with. None of the belts matched any bruises on DMR. No bruises on his body were consistent with a belt. These

belts failed to provide any evidentiary value, but serve only to imply the presence of physical evidence.

So, literally nothing recovered from my home backed up the prosecutor's case. Blind folds and bandanas were also on the search warrant because DMR told an unbelievable story of how I taped his hands in front of him, taped his mouth, then, inexplicably, I blind folded him with a bandana. No Bandana was recovered because I have not owned one in over 20 years! So the search warrant proved that I own belts and tape: Is this "beyond a reasonable doubt?"

Additional Ground 12

Dr Feldman testified on the stand that he was 100% sure that DMR's black eyes were the result of being repeatedly struck in the face. One look at the photos shows this to be impossible. The injury(?) pattern is too symmetrical. No random beating could produce such a bisymetric bruising or swelling pattern. Any assault victim will present with one eye more swollen than the other.

one side of the eye swollen more than the other, or one side of a black eye darker than the other. Never could violence create such a perfectly matched left and right side.

DMR's eyes were swollen, but soft. The tissue was purple, but evenly so. Not lumpy or mottled as one sees in an auto accident or a fight. It was evenly purple, top and bottom, all the way across. DMR expressed no pain when I palpated it and asked if it hurt.

The skin was puffed out, and evenly soft with no firm point of impact as one finds in a fight.

Yellow bruising was present below both cheek bones in the photos taken by DR Feldman. These bruises were not present when DMR was with me or in the first set of photos. These bruises were the same size, in the same places on opposite sides of his head, and had clearly defined corners.

I have never seen a beating that could produce such even results. It would be impossible to produce such results even if one were able to convince the victim to remain still (which seems a bit unlikely to me). To top it off the size of my hand would not allow strikes to the face of a seven year old to avoid producing a fat lip.

Split Lip, bloody or swollen nose or other lower facial injury.

Additional Ground 13

Another allegation is that I Choked DMR with an outstretched hand resulting in a single barely visible bruise under the left side of his jaw approximately half way between his chin and ear.

This laughable accusation, supported only by testimony, would require the trier of fact to believe that I could wrap my hand around a seven year old boy's neck hard enough to leave a bruise on his neck under his chin and NOT leave bruises shaped like my finger tips around his neck.

When I wrap my hand around my own neck my fingers and thumb reach around to the back half of my neck. This would leave large, clearly visible bruises. Furthermore, I am a 7'4" tall 200 pound man. My hand around a 5'4" pound boy's neck would put the bruises even further back on his neck.

If you read the child hearsay hearing transcripts and compare them to the trial transcripts, you will see that CPS agent Jensen purjured herself when describing how she discovered this bruise. She originally stated

that after finishing her initial interview, she went to the bathroom with DMR. She testified that he was refreshed and perked back up (which is what happens when you give a seven year old sugar) and told DMR that they were going to take pictures of his bruises. He then raised his head back spontaneously and said "Don't forget about these" and showed her his neck. It seems unlikely that a child would point out a bruise that he could not see in a mirror or by self examination unless he was coached. Cases like the Wenatchee Witch hunt of 1996 have well documented witness tampering and bribery by CPS personnel. Jensen's testimony during trial was vastly different.

Once again, an accusation was made in which the only piece of physical evidence tends to support my testimony and puts doubt on the states theory.

Additional ground 14

DMR failed to identify me twice in court. Once at the child hearsay hearing and once at trial. He does not remember me doing these things because I did not do them. He remembers a story that

has been developed in his head with little bits added every time he has retold it. He knows that he is supposed to say what he is supposed to say. He knows that if he admits that this is not true he is caught lying. He knows that the CPS and Cops paid ~~all~~ attention to him and gave him sympathy.

Additional Ground 15

My under wood, my public defender was made aware of all of these things and failed to object to the instances of misconduct by the prosecutor. He failed to catalyze the questions I provided him. These include why did DMK not simply tell his mom? Or my mom (to a kid, he could "get me in trouble")? or his gramma?

Why would Sara and I return DMK to his gramma? Sara had legal custody still.

I provided him with information about bruising, Aspergers syndrome and false memory in childrenness an requested expert witnesses. He failed to follow up or even inform me that those things were not possible. He led me to believe he was working on them. I had witnesses that could verify that DMK had a burn covering most of his right

thigh and that DMR's grandmother was aware of this, even though she testified under oath that he had no injuries. I told counsel that what she said was purgery and I could prove it and that this would discredit her as a witness, especially if he could get DMR's medical records. He failed to follow up on this. I provided Mr Underwood with a photo of DMR's former step father, who fits DMR's description of "Steve" better than I do. I even brought him physical evidence that supported my theories and Mr Underwood failed to perceive ANY of it. I provided documentation from the Mayo Clinic and Johns Hopkins that prove that DMR's loss of a tooth as well as his bed brushing habits were likely to cause a dental infection that leads to facial swelling and a condition called Raccoon eyes. That matches the swelling and blacking of the top in addition to the bottoms of the eyes. Finally, Mr. Underwood telling me on the last day of trial that he was "Burned out" and didn't know how long he could keep practicing law says the most about incompetent Counsel. As I write, another point strikes me; In the movies, they advise against it, but I truly could have done better on my own in court.

In conclusion, if spanking DMR is assault, then sending him to his room and standing him in the corner must have been unlawful imprisonment. Nothing I did was assault. More importantly, the prosecutor failed to prove that I did, and that was his job; the state is required to meet a heavy burden to ~~so~~ overcome the presumption of innocence AND FOLLOW ALL OF THE RULES IN DOING SO. Mr Hayes did not.

I debunked the physical evidence. All of the witness testimony ~~to~~ was hearsay. The accuser himself is a mentally compromised child. The experts agree that eye witness testimony changes to incorporate new information. Research findings are clear that "subsequent suggestion" makes a conviction based on eyewitness testimony alone to be unethical. To uphold this conviction is to corrupt the lifeblood of patriotism; our much vaunted Rule of Law. Based on the presumption of innocence and Reasonable doubt. The two legs on which our national moral supremacy stand, ~~They are~~ ^{IT IS} the ~~the~~ ~~two~~ ~~legs~~ on which we stand in judgement against nations like China and Iran who perform show trials only. If we reward police and prosecutors for resorting to such low tactics, civil rights violations and sloppy practices we will find those two legs cut out from under us.